

Representative Steve Eliason proposes the following substitute bill:

DRUG DISTRIBUTION INDUCED HOMICIDE

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill establishes the offense of drug-induced homicide.

Highlighted Provisions:

This bill:

- ▶ provides that an individual commits the offense of drug-induced homicide if the individual, acting as part of a continuing criminal enterprise, knowingly and unlawfully distributes a controlled substance to another individual causing the other individual's death;
- ▶ establishes an exception to drug-induced homicide resulting from the lawful distribution of a controlled substance by a licensed practitioner;
- ▶ establishes that drug-induced homicide is a first degree felony;
- ▶ establishes that it is a mitigating factor in sentencing for the offense of drug-induced homicide if the individual distributing a controlled substance reports an overdose to a proper authority; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



None

Utah Code Sections Affected:

AMENDS:

76-3-203.11, as enacted by Laws of Utah 2014, Chapter 19

76-5-201, as last amended by Laws of Utah 2010, Chapter 13

ENACTS:

76-5-211, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-3-203.11** is amended to read:

76-3-203.11. Reporting an overdose -- Mitigating factor.

It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, and Section 76-5-211, that the [person] individual:

(1) reasonably believes that the [person] individual or another [person] individual is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(2) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section **26-8a-102**, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the [person] individual is the subject of a report made under this section;

(3) provides in the report under Subsection (2) a functional description of the location of the actual overdose event that facilitates responding to the [person] individual experiencing the overdose event;

(4) remains at the location of the [person] individual experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the [person] individual experiencing an overdose event is located until a responding law enforcement officer arrives;

(5) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the [person] individual experiencing the overdose event and any substances the [person] individual may have injected, inhaled, or otherwise introduced into the [person's] individual's body; and

(6) committed the offense in the same course of events from which the reported overdose arose.

Section 2. Section **76-5-201** is amended to read:

76-5-201. Criminal homicide -- Elements -- Designations of offenses -- Exceptions.

(1) (a) Except as provided in Subsections (3) and (4), ~~[a person]~~ an individual commits criminal homicide if the ~~[person]~~ individual intentionally, knowingly, recklessly, with criminal negligence, or acting with a mental state otherwise specified in the statute defining the offense, causes the death of another human being, including an unborn child at any stage of its development.

(b) There shall be no cause of action for criminal homicide for the death of an unborn child caused by an abortion, as defined in Section 76-7-301.

(2) Criminal homicide is aggravated murder, murder, manslaughter, child abuse homicide, homicide by assault, negligent homicide, ~~[or]~~ automobile homicide, or drug-induced homicide.

(3) ~~[A person]~~ An individual is not guilty of criminal homicide of an unborn child if the sole reason for the death of the unborn child is that the ~~[person]~~ individual:

(a) refused to consent to:

(i) medical treatment; or

(ii) a cesarean section; or

(b) failed to follow medical advice.

(4) A woman is not guilty of criminal homicide of her own unborn child if the death of her unborn child:

(a) is caused by a criminally negligent act or reckless act of the woman; and

(b) is not caused by an intentional or knowing act of the woman.

Section 3. Section **76-5-211** is enacted to read:

76-5-211. Drug-induced homicide.

(1) As used in this section:

(a) "Administers" means the same as the term "administering" is defined in Subsection 58-17b-102(1)(a).

(b) "Continuing criminal enterprise" means the same as that term is defined in Subsection 58-37-2(1)(d).

(c) "Dispense" means the same as that term is defined in Subsection [58-17b-102](#)(22).

(d) "Distribute" means the same as that term is defined in Subsection [58-17b-102](#)(25).

(e) "Drug," except as provided in Subsection (1)(f), means the same as the term "controlled substance" is defined in Subsection [58-37-2](#)(1).

(f) "Drug" does not include a controlled substance that a practitioner with authority to prescribe the controlled substance lawfully administers, dispenses, distributes, or prescribes:

(i) for a purpose that is not unprofessional or unlawful conduct, as defined in Section [58-1-501](#); and

(ii) within the practitioner's scope of practice.

(g) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a controlled substance in the course of professional practice.

(h) "Prescribe" means the same as that term is defined in Subsection [58-17b-102](#)(62).

(2) Criminal homicide is drug-induced homicide if, while engaged in a continuing criminal enterprise, the actor knowingly and unlawfully distributes a drug to another individual and the drug:

(a) is used by the other individual; and

(b) causes the death of the other individual.

(3) Drug-induced homicide is a first degree felony.